

REMARKS

Applicant encloses herewith a copy of sheet 4 of 9 of Saito, in which Applicant has included comments regarding the disclosure of Saito and the features of the present invention, as defined in the claims.

Throughout the claims, Applicant has replaced the term "start block" by the term "header" as original supported by the fourth paragraph, second line of page 7 of the translation of the PCT application as originally filed.

Applicant is of the opinion that the term "header" means exactly the same thing to a person skilled in the art as the term "start block," so that the Examiner should be able to accept this amendment after final without taking the position that the Applicant has raised any new issues that would require an additional search.

Applicant requests that the Examiner give his opinion on that topic and on the amended claims, without requiring Applicant to file a request for continued examination (RCE).

Saito. Saito does not disclose a "start section" that remains unencrypted. The start section of the user data block as outlined in the enclosed commented sheet 4 is encrypted, because the start section is, as defined in the third paragraph and in the fourth paragraph of Claim 1, the section of the user data block which follows the header or start block. Thus, Saito definitely discloses to encrypt the first section of the user data block, which follows the header, while the present invention does not encrypt that section but only encrypts the second part.

The Examiner outlines on page 2 of the Office Action that he means with the "start block" the left most unencrypted data block, which Applicant has indicated as "second part" in Fig. 4G of Saito (attached).

This interpretation is, however, not justified, because the encrypted data portion to the left of the unencrypted data portion, which Applicant has indicated by a start section that also belongs to the "user data block" of Saito.

Furthermore, to make this even clearer, Applicant has replaced the term "start block" by the term "header" in the claims. The first encrypted data portion of Fig. 4G of Saito does not belong to the header, although Saito clearly distinguishes between a header and data. The same difference is presented in the wording of Claim 1, which distinguishes between the header and the user data block. The third paragraph of Claim 1 makes it clear that the start section, which is unencrypted, follows the header and is the first part of the user data.

In Saito, the left-most unencrypted data portion is the second part of the user data and does not follow the header, and is also not the start section of the user data block. Instead, the unencrypted data portion in Saito is behind the start section of the user data block. The start section of the user data block in Saito is, as becomes clear from the commented Fig. 4G, encrypted.

Regarding Applicant's provides argument B, the Examiner is in error when stating that support for argument B is not included in the claims. Instead, argument B is included in the playback Claims 6 and 13, while the first argument (argument A) is included in the generating claims 1 and 12.

Regarding the Examiner's remarks on page 3, second paragraph, the Examiner did not reject the independent claims based on a combination of Saito and Downs or Saito and Rump.

Regarding the objection against the drawings, enclosed please find a replacement Fig. 5, in which Applicant has introduced the "only" feature.

Regarding the Examiner's objection to the specification, the Examiner is in error when stating that the "only" feature is not supported by the description. Please refer to page 16, second paragraph, line 6 of the translation of the PCT application as originally filed:

5 "According to the present invention only the information of the start block 12 which is absolutely necessary for playing back the unencrypted start section of the user data block 14 (step 110) is initially processed in the playback device." (emphasis added)

10 Thus, the Examiner's objection against the specification is not justified.

This also applies to the written description requirement objection on page 5 of the Office Action. Examiner is of the opinion that this disclosure in the specification is
15 sufficient for overcoming this objection.

Regarding detailed arguments with respect to the Saito reference, the Examiner is referred to Applicant's remarks in the response previously filed with the Patent Office.

20 The Examiner's rejection requires the Applicant to address the Downs reference. This reference does not disclose to leave the first part unencrypted. Instead, this reference discloses to completely encrypt a content. The idea to leave the first part unencrypted to provide a teaser and to make the header so that only a part
25 of the header which is absolutely necessary for replaying the free first part of the user data so that the user can review the first part of the audio data without having to buy the full piece, is not at all disclosed in the Downs reference. Thus, this reference also does not disclose the features, which makes the invention new in view of Saito. To this end, please refer to column 3, lines 43 and 44.

The Rump reference, which corresponds to US patent 6,735,311 B1, which is assigned to the same assignee as in the present application, also discloses to encrypt the first part of an audio piece as illustrated in Fig. 3 and to leave the rest unencrypted, as also done in Fig. 4G of Saito. However, the idea to not encrypt the first part and to only encrypt the second part of the user payload data is also not at all disclosed in the Rump reference. In this context, note column 9, lines 16-19 of the US patent, which makes it clear that the free index, which the Examiner alludes to, does not have anything to do with deciphering, but only has to do with fully enabling a demo version of a deciphering device. In view of that, the Rump reference also does not disclose to leave the first part of user payload data unencrypted and to only encrypt the second part. All references of record only disclose at most, to encrypt the first part and to leave the second part unencrypted, which is completely contradictory to the present invention.

Should the Examiner find it helpful, he is encouraged to contact Applicant's attorney, Michael A. Glenn at (650) 474-8400.

Respectfully submitted,



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